

BARBARA K. CEGAVSKE
Secretary of State

STATE OF NEVADA



SCOTT W. ANDERSON
Chief Deputy Secretary of State

WAYNE THORLEY
Deputy Secretary for Elections

**OFFICE OF THE
SECRETARY OF STATE**

February 7, 2019

Via Email and U.S. Mail

Debra March
Mayor, City of Henderson
2275 Corporate Circle, Suite 275
Henderson, NV 89074

RE: Application of Constitutional Term Limits

Dear Ms. March,

You have requested an opinion from the Secretary of State regarding your eligibility to run for another term of office in 2021 as Mayor of the City of Henderson given the term limits found in the Nevada Constitution¹ for elected members of local legislative bodies. As you noted in your request, the Secretary of State's office issued Secretary of State Interpretation 15-13-01 (enclosed) on February 3, 2015, which states:

"An elected public officer who has not served 12 years and who will not have reached 12 years of service at the expiration of his or her current term is not prohibited from running for and being elected to an additional term of that office, even though the elected public officer will serve in excess of 12 years by the expiration of the final term."

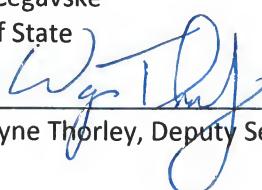
This interpretation is still valid. Accordingly, it is the opinion of the Secretary of State's office that Nevada's term limits provisions do not prohibit you from running for a second term as Mayor of the City of Henderson if there is a municipal election held in 2021 and the term of office begins before July 21, 2021. However, please note that the Secretary of State has submitted Assembly Bill 50 to the 80th (2019) Session of the Nevada Legislature. If this bill is approved as currently drafted, the next election for Mayor of the City Henderson will not occur until November 2022. As a result, the passage of Assembly Bill 50 in its current format would prohibit you from running for a second term as Mayor of the City of Henderson.

Should you have any questions regarding this letter, please contact the undersigned at (775) 684-5720 or wthorley@sos.nv.gov.

Respectfully,

Barbara K. Cegavske
Secretary of State

By:


Wayne Thorley, Deputy Secretary for Elections

Enclosure

¹ "No person may be elected to any state office or local governing body who has served in that office, or at the expiration of his current term if he is so serving will have served, 12 years or more, unless the permissible number of terms or duration of service is otherwise specified in this Constitution." Nev. Const. Art. 15, § 3(2).

STATE OF NEVADA



OFFICE OF SECRETARY OF STATE BARBARA K. CEGAVSKE

February 3, 2015

SECRETARY OF STATE INTERPRETATION
NUMBER: 15-13-01

QUESTION:

May a candidate who has not yet served 12 years in an office be reelected to that office for another term if the candidate will serve more than 12 years before the expiration of that term?

ANSWER:

Yes. An elected public officer who has not served 12 years and who will not have reached 12 years of service at the expiration of his or her current term is not prohibited from running for and being elected to an additional term of that office, even though the elected public officer will serve in excess of 12 years by the expiration of the final term.

ANALYSIS:

The Nevada Constitution's term limits for Assembly members and Senators are found in Article 4, Sections 3 and 4, respectively. Term limits for state officers and members of local legislative bodies are found in Article 15, Section 3, Paragraph 2.

Nev. Const. Art. 4, § 3(2) provides: "No person **may be elected** or appointed as a member of the Assembly who **has served** in that Office, **or at the expiration of his current term if he is so serving will have served**, 12 years or more, from any district of this State." (Emphasis added.) Nev. Const. Art. 4, § 4(2) provides the same for state senators.

The language for state officers and members of local legislative bodies is similar: "No person **may be elected** to any state office or local governing body who **has served** in that office, **or at the expiration of his current term if he is so serving will have served**, 12 years or more, unless the permissible number of terms or duration of service is otherwise specified in this Constitution." Nev. Const. Art. 15, § 3(2).

In each case, the constitution states that a person who "has served" 12 years already, or who "will have served" 12 years or more at the end of his or her current term may not "be elected" to that office. The plain language of the provision prohibits the *election* of the person to that office¹ if the person has served, or will have served, 12 years or more. *Miller v. Burk*, 124 Nev. 579,

¹ For Assembly members and Senators, the constitution also prohibits the appointment to such an office by someone who has already served 12 years or more, or will have served 12 years or more at the expiration of their term.

591-92, 188 P.3d 1112, 1120-21 (2008). Notably, the provision does not prohibit a person from serving more than 12 years. In fact, it expressly acknowledges that in some cases, a person will serve more than 12 years.

Furthermore, the term limits provisions do not distinguish between years served as an appointee, and years served as an elected official. It simply refers to years “served.” Accordingly, time served as an appointee is counted toward the 12 year limit, the same as time served after being elected. *See Burk*, 124 Nev. at 591, 188 P.3d at 1120 (“the provision focuses on years of service, not elections”).

For example, a candidate may be appointed to fill a vacancy in an office with a four-year term. For purposes of illustration, assume the candidate serves the remaining two years of the term after being appointed, and then is elected to the office. At the end of his first elected term, he has served 6 years. He is reelected, and serves another 4 year term. By the end of his second elected term, the candidate has served a total of 10 years.

Because he has not yet served 12 years or more, the candidate is eligible to run again and to be elected to the office. After he is reelected a third time, he will have served 14 years at the end of his third term. At that point, because the candidate will have served more than 12 years, he is not eligible to be elected to that office again.

CONCLUSION:

It is the interpretation of this office that Nevada’s term limits provisions do not prohibit a person from being elected to an office if the person has not yet served 12 years or more in that office. This conclusion applies even though the person will serve more than 12 years at the expiration of the term if he or she is elected.

BARBARA K. CEGAVSKE
Secretary of State

By:



Scott F. Gilles,
Deputy Secretary of State for Elections